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Paper No. 4

KILPATRICK STOCKTON LLP
BERNARD J. GRAVES, JR., ESQUIRE
3500 ONE FIRST UNION CENTER
301 SOUTH COLLEGE STREET
CHARLOTTE, NC 28202-6001

COPY MAILED

AUG 24 2001

In re Application of
Ponasik et al.
Application No. 09/776,984
Filed: February 5, 2001
Attorney Docket No.: 32887.205225

ON PETITION

OFFICE OF PETITIONS

This is a decision on the petition filed June 14, 2001, requesting in effect that the "Notice of Omitted Item (s) in a Nonprovisional Application" be withdrawn and the petition fee refunded in the above-identified application.

The application was filed on February 5, 2001. However, on April 16, 2001, Initial Patent Examination Division mailed a "Notice" requiring page 18 of the specification.

In response, page 18 of the specification, and the present petition were filed on June 14, 2001. The petition contends that the application as filed included page 18 of the specification. Furthermore the petition claims status as a divisional of prior application No. 09/222,614. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the Office of "specification- 102 Sheets" on February 5, 2001.

Applicant's postcard receipt is prima facie evidence that the specification, containing one hundred and two (102) pages including page 18, was received on February 5, 2001. However page 18 of the specification is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 18 of the specification was received on February 5, 2001, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

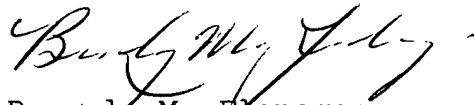
Since the original page 18 of the specification cannot be located in the Office, the copy of page 18 of the specification supplied on June 14, 2001, will be used for processing and examination purposes.

The petition fee will be refunded.

The application is being forwarded to the Office of Finance, Refund Section to credit the \$130.00 petition fee to deposit account No. 16-1435.

The application will then be returned to Initial Patent Examination Division for further processing with a filing date of February 5, 2001, using page 18 of the specification supplied on June 14, 2001.

Telephone inquiries related to this decision may be directed to
Petitions Attorney Charlema R. Grant at (703) 306-0251.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy